

REMARKS

Claims 7, 9-11, and 13-26 are pending. Claims 7, 13 and 20 are amended. Reconsideration in view of the following remarks is respectfully requested.

Claim Rejections – 35 U.S.C. § 112

Claims 7, 9-11, and 13-26 stand rejected under 35 U.S.C. § 112, first paragraph as allegedly failing to comply with the written description requirement. Without acquiescing to the propriety of the rejection, Applicants have amended the claims and removed the word “equilibrium.” For example, claim 7 now recites, in combination, “a magnetic armature part which is set in linear oscillating motion about a center position in an axial direction by the magnetic field of the winding, the center position being the position the armature part adopts when oscillating between its maximum lateral deflection positions.” Withdrawal of the rejection is respectfully requested.

Claim Rejections – 35 U.S.C. § 103

Claims 7, 9-10, 13-17, 19-23, and 25-26 stand rejected under 35 USC § 103(a) over US Patent No. 6,323,568 to Zabar in view of German Patent Number 1146678 to Rumswinkel and Applicant’s own disclosure (AAPA) to which the Office Action characterizes as “admitted prior art.” Further, claims 11, 18, and 24 stand rejected under 35 USC § 103(a) over Zabar, Rumswinkel, and AAPA in further view of US Patent No. 3,678,308 to Howe. These rejections are respectfully traversed.

Applicants’ claim 7 recites, in combination, “wherein the spring is configured as a leaf spring and when the armature part is at the center position the spring is pre-tensioned transverse to the direction of movement of the armature part.” Similar features are set forth in independent claim 20. Further, Applicants’ claim 13 recites, in combination, “wherein when the armature part is in the center position, the point of application of the spring on the armature part is axially displaced a predetermined distance from the clamped position of the spring, such that the spring is pre-tensioned by the axial displacement.”

As set forth in Applicants’ prior response of September 28, 2010, the Zabar/Rumswinkel combination fails to teach or suggest the above features of Applicants’ independent claims. To overcome this lack of a teaching or suggestion with respect to the

above features, the Office Action applies disclosure from the instant Application by labeling certain parts of the specification as “admitted prior art.” The Office Action appears to assert all of Paragraph 20 of the original specification is “admitted prior art.” Of note, the Office Action fails to provide any reasoning for taking this large swath of Applicants’ disclosure and labeling it as “prior art.”

For discussion purposes, Applicants reproduce paragraph 20 below:

In the drive unit according to the invention, the rest position of the armature in which the spring forces are removed, is displaced by a predetermined distance Δx towards one side. The associated pre-tensioning force should act laterally in the x-direction where a compressor V or its pump plunger is located. For this purpose, at least on one side the armature 15 goes over axially into a lateral extension part 16, not embodied in detail, which is rigidly connected to the pump plunger of the compressor V. Corresponding compressors of linear compressors connected to linear driver units and their individual parts belong to the prior art (see, e.g. said JP_2002-031054_A or US 6 323 568 B1). Thus, these will not be described.

(Paragraph 20 of Applicants’ original specification, Emphasis Added).

The MPEP provides that “[w]here the specification identifies work done by another as ‘prior art,’ the subject matter so identified is treated as admitted prior art.” (MPEP 2129). As can be seen from the above reproduced paragraph 20, the prior art “admitted,” per the MPEP, is the following passage, “[c]orresponding compressors of linear compressors connected to linear driver units and their individual parts belong to the prior art (see, e.g. said JP_2002-031054_A or US 6 323 568 B1).” This is the only prior art that is admitted in paragraph 20.

The rest of the paragraph relates to the drive unit 10 (e.g., “In the drive unit according to the invention”) and features associated therewith. Further, the drive unit and its associated elements are discussed with reference to the drawings (e.g., figure 1). There is no admission that the features discussed with reference to the drawings are given over to the prior art.

To Applicants, the position asserted in the Office Action appears to be based on reasoning that by admitting something (e.g., “corresponding compressors”) is prior art in a paragraph, then all of the items discussed in the paragraph are also admitted. However, such a broad interpretation of a paragraph is simply not reasonable. Accordingly, the

recited “pre-tensioning” found in Applicants’ independent claims is not prior art as asserted in the Office Action.

As the AAPA asserted in the Office Action is not prior art, the above § 103 rejection is left with only the Zabar/Rumswinkel combination. As acknowledged in the Office Action, Zabar fails to disclose such a feature. Further, the armature in Rumswinkel, like the armature in Zabar, is completely at rest (i.e., not tensioned) at the equilibrium position. Accordingly, the alleged Zabar/Rumswinkel combination fails to render obvious Applicants’ independent claims 1, 13, and 20. Withdrawal of the above rejection is respectfully requested.

Further, Howe does not supply the above missing teachings from Zabar or Rumswinkel. Accordingly, the alleged Zabar/Rumswinkel combination fails to render obvious claims 11, 18, and 24. Withdrawal of the above rejections is respectfully requested.

CONCLUSION

Applicants respectfully request entry of the present Amendment. If the Examiner has any questions regarding this amendment, the Examiner is requested to contact the undersigned. If an extension of time for this paper is required, petition for extension is enclosed.

Respectfully submitted,

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